

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19497
[REDACTED],)	
)	DECISION
Petitioners.)	
_____)	

[Redacted] (petitioners) protest the Notice of Deficiency Determination issued by the auditors for the Idaho State Tax Commission (Commission) dated March 22, 2006. The Notice of Deficiency Determination asserted additional liabilities for Idaho income tax, penalty, and interest in the total amounts of \$1,831, \$1,645, \$559, and \$2,185 for 2001, 2002, 2003, and 2004, respectively.

Most of the adjustments made by the auditor relate to the itemized deductions claimed by the petitioners. Adjustments were made to medical expenses claimed, taxes, charitable contributions, and to employee business expenses. The auditor also disallowed a deduction claimed for an alternative energy device.

Taxpayers bear the burden of proof with regard to deductions. The U. S. Supreme Court addressed this issue as follows:

Whether and to what extent deductions shall be allowed depends upon legislative grace; and only as there is clear provision therefor can any particular deduction be allowed.

* * *

Obviously, therefore, a taxpayer seeking a deduction must be able to point to an applicable statute and show that he comes within its terms.

New Colonial Ice Co. v. Helvering, 292 U.S. 435, 440, 54 S.Ct. 788, 790 (1934).

[Redacted] The auditor allowed the qualifying expenditures documented by the petitioners for each of the categories. The auditor found that the deductions for [Redacted]

traveling expenses should be calculated using federal guidelines for meals and incidental expenses.

The petitioners did not indicate that they disagreed with any of the mechanical computations. However, they indicated that they should be allowed a medical deduction [Redacted] based upon the square footage of their house. They cited no authority for this proposed deduction. The Commission also knows of no authority for this position and, therefore, does not grant this deduction.

The Commission found errors in the auditor's computations of the deductions for [Redacted] meals and incidental expenses for the time he was away from home. The Commission finds that these errors should be corrected.

In reviewing the penalty imposed, the Commission finds that the auditor imposed the substantial underpayment penalty pursuant to Idaho Code § 63-3046(d) which stated in part:

(1) If there is a substantial understatement of tax for any taxable year, there shall be added to the tax an amount equal to ten percent (10%) of the amount of any underpayment attributable to such understatement.

(2) For purposes of this subsection, there is a substantial understatement of tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of:

- (i) Ten percent (10%) of the tax required to be shown on the return for the taxable year, or
- (ii) Five thousand dollars (\$5,000).

The Commission finds that the amounts of the deficiencies did not meet the criteria for the imposition of this (10%) penalty. Therefore, the penalty asserted by the auditor is replaced by the (5%) negligence penalty.

WHEREFORE, the Notice of Deficiency Determination dated March 22, 2006, is hereby MODIFIED, and as so modified, is APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioners pay the following tax, penalty, and interest (computed to March 31, 2007):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2001	\$ 1,270	\$ 64	\$ 378	\$ 1,712
2002	1,212	61	283	1,556
2003	359	18	65	442
2004	1,615	81	194	<u>1,890</u>
				<u>\$ 5,600</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioners' right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]Receipt No.
[REDACTED]